cases are far from being unanimous in this view. *Knisley v. Pratt,* 148 N. Y. 372, 42 N. E. 986, 32 L. R. A. 367. For a fuller discussion, see 4 MICHIGAN LAW REVIEW, 165.

MASTER AND SERVANT—NEGLIGENCE OF VICE PRINCIPAL.—It was the duty of a sawyer in a lumber mill to operate the saw and direct the men working with him, who were hired and discharged at his request by the foreman. As one of the men was reaching across a "nigger", which was perfectly safe when in its slot, the sawyer put the "nigger" into operation and injured the employee. *Held,* the sawyer is vice principal and the master is liable for his failure to warn an employee placed in a position the danger of which was unknown to the employee but known to the sawyer. *Dossett* v. *St. Paul & Tacoma Lumber Co.* (1905), — Wash. —, 82 Pac. Rep. 273.

This case is interesting as indicating how far some courts are carrying the superior servant idea, but it is in accord with the Washington decisions in that regard. *Sroufe et al.* v. *Moran Bros.,* 28 Wash. 381, 68 Pac. 896, 58 L. R. A. 313, 92 Am. St. Rep. 847. The facts show, however, that the holding is placed on peculiar ground. The place was not necessarily dangerous, being in full view of the sawyer, and was made dangerous only by his direct act. The latent danger was as well known to the employee as to the sawyer. II LABATT, MASTER AND SERVANT, p. 1460; *Martin* v. *A. T. & St. F. R. R.* 166 U. S. 399, 2 MICHIGAN LAW REVIEW 79, 90. However, there is authority for holding the master liable for the direct negligent acts of the vice principal under the doctrines first laid down in *Crispin* v. *Babbitt,* 81 N. Y. 516. In the dissenting opinion of EARL, J., in which he contends that a vice principal is the *alter ego* of his master who is responsible for all his acts. It certainly seems more satisfactory than the Washington view that one may be a fellow servant as to the manual acts complained of, but a vice principal as regards his duty to warn the servant of the pending danger from these acts, known to the vice principal but not to the servant. *Nelson* v. *Navigation Co.,* 26 Wash. 548, 67 Pac. 237.

MASTER AND SERVANT—VIOLATION OF EMPLOYERS' LIABILITY ACT—CONTRIBUTORY NEGLIGENCE.—Where a statute requires certain precautions to be taken by a mine owner to render his premises safe for employees and a miner is injured because of the owner's failure to comply with the statutory requirement, *held,* that plaintiff's contributory negligence was no defence to an action by him based upon the defendant's failure to comply with the statute. *Kellyville Coal Company* v. *Strine* (1905), — Ill. —, 75 N. E. Rep. 375.

The Illinois courts in a long line of decisions have consistently adhered to the position above taken. The great weight of authority, however, is contrary to the Illinois view. *Railway Company v. Craig,* 73 Fed. Rep. 642, 19 C. C. A. 631; *Taylor* v. *Manuf'g Company,* 143 Mass. 470, 10 N. E. 308; *Holum* v. *Railway Company,* 80 Wis. 299, 50 N. W. 99; *Coal Company* v. *Muir,* 20 Colo. 320, 38 Pac. 378. Many of the Illinois cases cited in the principal case confuse the doctrines of contributory negligence and assumed risk. (See 4 MICHIGAN LAW REVIEW 165.) The distinction is well brought out in *Railway Company* v. *Baker,* 33 C. C. A. 468, 91 Fed. 224. There a federal

statute required railroad companies to furnish certain appliances and expressly provided, that on injury resulting from failure to do so, the defence of assumed risk should not be available to the railway company. The court nevertheless permitted the defence of contributory negligence to be introduced.

PLATS—STATUTORY DEDICATION—INSUFFICIENT CERTIFICATE AND ACKNOWLEDGMENT.—Under the laws of the state of Illinois, which provided that when an addition was surveyed and a plat made and certified by the county surveyor and acknowledged by the proprietor the fee to the streets and alleys would pass to the city, it was *held* that a plat made and certified by a *deputy* surveyor and acknowledged by the *agent* of the proprietor was insufsufficient to constitute a statutory dedication. *Wilder* v. *Aurora,* etc., *Traction Co.* (1905), — Ill. —, 75 N. E. Rep. 194.

While this is according to precedent in Illinois (*Village of Auburn* v. *Goodwin,* 128 Ill. 57, overruling *Gebhardt* v. *Reeves,* 75 Ill. 305; *Thompson* v. *Maloney,* 199 Ill. 276) it seems somewhat arbitrary. A more satisfactory result could be obtained by applying the following rule, proposed by Judge Elliott (ROADS AND STREETS, § 119), "to resolve doubts in such cases against the donor, and within reasonable limits to construe the dedication so as to benefit the public rather than the donor.", or, as expressed by Dillon in his MUNICIPAL CORPORATIONS (note 2 § 628), "If the plat as recorded * * * contains enough to show that it was intended by the owner to be a dedication under the statute, it would seem to the author to be right, notwithstanding a defective acknowledgment or the like, to hold the proprietor estopped to make the objection that he did not comply with the statute." See *Ragan* v. *McCoy,* 29 Mo. 356.

PLEADING—DISCREPANCY BETWEEN TITLE AND AVERMENTS OF A COMPLAINT.—In the title of the complaint defendant is named only in his individual capacity, but in the complaint itself a cause of action is stated against him in his representative capacity. Upon a demurrer that the complaint does not state a cause of action, *held,* that the demurrer should be sustained. (Werner and Bartlett, JJ., dissent.). *Leonard* v. *Pierce et al.* (1905), — N. Y. —, 75 N. E. Rep. 313.

Courts have frequently held that the title and pleadings may be considered together to determine the capacity in which a party sues or is sued. *Stilwell* v. *Carpenter,* 62 N. Y. 639, in full in 2 Abb. (N. C.) 238; *Jennings* v. *Wright,* 54 Ga. 537; *Rich* v. *Sowles,* 64 Vt. 408; *Beers* v. *Shannon,* 73 N. Y. 292. Thus where a party's name appears in the title, followed by words *descriptio personæ,* and the complaint clearly states a cause of action against or for him as an individual, the affix to his name in the title is treated as surplusage. *Stilwell* v. *Carpenter* (supra); *Litchfield* v. *Flint,* 104 N. Y. 543, 550. And, when under a similar title, the complaint states a cause of action against the party in a representative capacity, the action is against him in that capacity. *Beers* v. *Shannon,* 73 N. Y. 292; *Knox* v. *Met. El. Ry. Co.,* 58 Hun (Sup. Ct. N. Y.) 517, affirmed 128 N. Y. 625. In the principal case, a majority of the court refused to take a step further and disregard an entire omission of the *officio designata* in the title. They rely upon the case of *First Nat. Bank* v. *Shuler,*